

Social Security Administration

§ 410.647

The Administrative Law Judge may examine the witnesses and shall allow the parties or their representatives to do so. If the Administrative Law Judge conducts the examination of a witness, he may allow the parties to suggest matters as to which they desire the witness to be questioned, and the Administrative Law Judge shall question the witness with respect to such matters if they are relevant and material to any issue pending for decision before him.

§ 410.643 Oral argument and written allegations.

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written statements of allegations as to facts or law. Where there is more than one party to the hearing, copies of any brief or other written statement shall be filed in sufficient number that they may be made available to any party.

§ 410.644 Record of hearing.

A complete record of the proceedings at the hearing shall be made. The record shall be transcribed in any case which is certified to the Appeals Council without decision by the Administrative Law Judge (see §§ 410.654 and 410.657 to 410.659 inclusive), in any case where a civil action is commenced against the Secretary (see § 410.666), or in any other case when directed by the Administrative Law Judge or the Appeals Council.

§ 410.645 Joint hearings.

When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters in issue at each such hearing, the Administrative Law Judge (formerly called "hearing examiner") may fix the same time and place for each hearing and conduct all such hearings jointly. However, where there is no common issue of law or fact involved in two or more hearings and any party objects to a joint hearing, a joint hearing may not be held. Where joint hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others,

and a separate or joint decision shall be made, as appropriate.

[37 FR 20652, Sept. 30, 1972]

§ 410.646 Consolidated issues.

When one or more additional issues are raised by the Administrative Law Judge pursuant to § 410.637, such issues may, in the discretion of the Administrative Law Judge, be consolidated for hearing and decision with other issues pending before him upon the same request for a hearing, whether or not the same or substantially similar evidence is relevant and material to the matters in issue. A single decision may be made upon all such issues.

§ 410.647 Waiver of right to appear and present evidence.

(a) *General.* Any party to a hearing shall have the right to appear before the Administrative Law Judge (formerly called "hearing examiner"), personally or by representative, and present evidence and contentions. If all parties are unwilling, unable, or waive their right to appear before the Administrative Law Judge, personally or by representative, it shall not be necessary for the Administrative Law Judge to conduct an oral hearing as provided in §§ 410.636 to 410.646, inclusive. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the Administrative Law Judge. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a hearing before the Administrative Law Judge, the Administrative Law Judge may, nevertheless, give notice of a time and place and conduct a hearing as provided in §§ 410.636 to 410.646, inclusive, if he believes that the personal appearance and testimony of the party or parties would assist him to ascertain the facts in issue in the case.

(b) *Record as basis for decision.* Where all of the parties have waived their right to appear in person or through a representative and the Administrative Law Judge does not schedule an oral hearing, the decision shall be based on